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**A Publication of the  
DEPARTMENT OF REGULATION AND LICENSING FOR  
CEMETERY AUTHORITIES, CEMETERY SALESPERSONS AND PRENEED SELLERS  
Volume 8, No. 2 February, 2002**

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### **Cemetery Advisory Committee**

We regret to inform you that Dewey Mathewson of New London recently passed away. Dewey was an energetic ombudsman for the small cemeteries in Wisconsin. He regularly communicated with them and sent letters to the Cemetery Advisory Committee and the Department about proposed changes that were needed or that he believed should not be made. Dewey was not afraid to "lay his cards on the table." We will miss him.

The Committee also lost the services of another dedicated Committee member. After serving on the Committee for 5 years and also serving on the Cemetery Complaint Screening Panel for part of that time, Laurel Schafferty of Milwaukee stepped down and recommended Craig Gramke to replace her. Laurel served on the Committee as a representative of the Wisconsin Association of Monument Builders of North America.

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### **CEMETERY ADVISORY COMMITTEE**

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#### **Committee Members:**

Marie Drescher, Tomah  
Craig Gramke, Janesville  
E. Glen Porter, III, New Berlin  
Jon Ruatti, Green Bay  
David Stucki, Waunakee  
Tim Tysver, Madison  
Jim Ullom, Madison  
David Weiss, Racine

#### **Administrative Staff:**

Cletus J. Hansen, Division Administrator

#### **Executive Staff:**

Oscar Herrera, Secretary  
Greg Horstman, Deputy Secretary  
Myra Shelton, Executive Assistant

She was a conscientious and dedicated Committee member. We will miss her, too,

Craig Gramke, a monument dealer in the Janesville area has agreed to serve on the Committee and on the Cemetery Complaint Screening Panel. He has already attended two Committee meetings and two meetings of the Screening Panel. We are glad to have Craig with us.

Five other Committee members did not accept an invitation for reappointment to the Committee. They are John Nelson of Green Bay, Beverly Steinhoff of Madison, Dicie Mae James of Milwaukee, the Reverend Leroy Mixon of Milwaukee and Kelly Coleman of Green Bay. John was a Committee member for 10 years and a leader in his professional association. We are grateful to all of these Committee members for providing advice and counsel to the Department.

You will also find two other new names on the Committee roster. They are Jon Ruatti, who replaced John Nelson, and Jim Ullom, who replaced Beverly Steinhoff. We were pleased to have Jon and Jim join us.

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## Biennial Budget Bill

The Biennial Budget Bill was passed and enacted as 2001 Wisconsin Act 16. Some provisions of note to cemetery officials are the following:

Fee Changes. Original registration fees for all occupations and professions licensed by the Department increased from \$44 to \$53. Renewal fees for cemeteries, cemetery salespersons and preneed sellers remained the same at \$343, \$90 and \$61, respectively.

Winter Burials: New requirements for winter burials were enacted. See the article below.

## Winter Burials

The Department sent the following letter to cemetery officials on December 4, 2001:

TO: Officials of Cemeteries Registered in Wisconsin

This is a reminder that 2001 Wisconsin Act 16, the Biennial Budget Bill, created the following new section in Chapter 157 of the Wisconsin Statutes:

**157.114 Duty to provide for burials.** (1) In this section "cemetery authority" does not include a municipality that takes control of a cemetery under 157.115 (1) (b).

(2) A cemetery authority shall, insofar as practicable, provide for burials during each season, including winter. Nothing in this subsection may be construed to prohibit a cemetery authority from charging a reasonable fee to recover the costs related to providing for a burial during difficult weather conditions.

This new law is now in effect and you should be complying with it at this time. Representatives of the Department have had discussions with various persons about the meaning of "practicable" in the new law. Please note that this term is not defined in the law. However, we believe that you should make a serious effort to determine what your costs would be to make burials under certain winter conditions at your cemetery and to have your price list available, so you can provide it upon request. Perhaps, under some conditions you will not be able to make a burial. If such is the case, you should be prepared to make a reasonable statement as to why you can't do so at a certain, specific time.

Since the new law was created in Chapter 157, Subchapter II, the enforcement provisions at the end of Subchapter II will apply. These provisions read, as follows:

**157.64 Penalties.** (1) In addition to or in lieu of other remedies provided by law, any person who violates this subchapter or any rule promulgated under this subchapter may be required to forfeit not more than \$200 for each separate offense. Each day of continued violation constitutes a separate offense.

**157.65 Enforcement.** (1) (a) If the department of regulation and licensing has reason to believe that any person is violating or has violated this subchapter or any rule promulgated under this subchapter and that the continuation of that activity might cause injury to the public interest, the department of regulation and licensing may investigate.

(b) If the department of commerce has reason to believe that any person is violating s. 157.12 or any rule promulgated under s. 157.12 and that the continuation of that activity might cause injury to the public interest, the department of commerce may investigate.

(2) The department of justice or any district attorney, upon informing the department of justice, may commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction any violation of this subchapter. The court may, prior to entry of final judgment, make such orders or judgments as may be necessary to restore to any person any pecuniary loss suffered because of the acts or practices involved in the action, if proof of such loss is submitted to the satisfaction of the court. The department of justice may subpoena persons and require the production of books and other documents, and may request the department of regulation and licensing or the department of commerce to exercise its authority under sub. (1) to aid in the investigation of alleged violations of this subchapter.

(3) In lieu of instituting or continuing an action under this section, the department of justice may accept a written assurance of discontinuance of any act or practice alleged to be a violation of this subchapter from the person who has engaged in the act or practice. An assurance entered into under this subsection shall not be considered evidence of a violation of this subchapter, but a violation of the assurance shall be treated as a violation of this subchapter.

## Proposed Crematory Regulation

The Funeral Directors Examining Board has worked its way through several preliminary drafts during the last year and has received a draft that has been prepared by the Legislative Reference Bureau. This draft is now being fine-tuned, so that it can be introduced in the Legislature early in 2002. Time is running out; however, the Board intends to work hard to get the bill passed in what remains of the 2001-2002 legislative session.

This proposed regulation would require that crematories be licensed by the Board or the Department. The regulation would also address a variety of issues relating to the authority of a person to authorize a cremation, the delivery and acceptance of human remains, cremation requirements, the disposition of cremated remains, liability issues pertaining to crematories and funeral directors, and other related issues.

Both the Cemetery Advisory Committee and the Wisconsin/Badger State Cemetery Association have requested more discussion of the provisions in the bill draft that require the Funeral Directors Examining Board to license and discipline (if

necessary) crematories operated by funeral directors and that require the Department to license and discipline (if necessary) crematories operated by cemeteries or other persons. The Committee and the Association believe there should be one licensing entity that is authorized to take disciplinary action when needed. The exact location where the crematory regulation would be placed in the Wisconsin Statutes has also been a matter of additional discussion.

### **Cemetery Legislative Proposals**

After many hours of meetings and many drafts of a proposal to amend the statutes relating to the regulation of cemeteries in Wisconsin, an abbreviated version of the proposal was included in the Biennial Budget Bill. The provisions in the Biennial Budget Bill would have imposed new regulations on cemeteries in Milwaukee County only. The Wisconsin/Badger State Cemetery Association, the Department and others opposed these provisions and urged Governor Scott McCallum to veto them. Governor McCallum did veto them. Therefore, we are back to a lengthier process than the fast track that is provided by the Biennial Budget Bill.

There is still a bill that has been introduced by Representative Johnnie Morris-Tatum, 2001 Assembly Bill 107; however, the Department does not know at this time whether Representative Morris-Tatum will still try to get her bill passed in the current session.

The Department believes that an amended draft of Representative Morris-Tatum's bill, that was prepared in consultation with representatives of her office, the city of Milwaukee, the Wisconsin/Badger State Cemetery Association, the Alliance of Cities, the League of Municipalities, the Wisconsin Funeral Directors Association and the Department, is a very good proposal. During the next few months the Department will be considering whether to request introduction of this proposal in the 2003 Legislature.

### **Information on the Internet**

The Department's Web site now has a search feature that enables you to enter a keyword and find something on our Web site that includes that word. This feature also enables you to find articles on certain topics that have been printed in those issues of the Regulatory Digest that are on the Web. You may click on: <http://www.drl.state.wi.us/>

### **Stipulation Involving King Drive Memorial, Inc.**

The state of Wisconsin obtained a consent order on October 17, 2001, against King Drive Memorials, Inc., and Susan Watkins for allegedly failing to deliver monuments for graves at Evergreen Cemetery in Milwaukee.

The consent order requires King Drive Memorials, Inc., and Susan Watkins to pay \$5,000 in civil forfeitures for accepting payments for monuments and not installing them. The order also prohibits the company from making misrepresentations related to the sale and installation of memorials and requires the company to comply with state laws governing the deliver of memorials. Under the order, King Drive Memorial is required to install 18 memorials at Evergreen Cemetery.

Under the terms of the stipulation, King Drive Memorials denied it had engaged in violations or any wrongdoing.

### **Loewen Group Becomes Alderwoods Group**

The Loewen Group, Inc., informed the Department on December 5, 2001, that the United States Bankruptcy Court for the District of Delaware had confirmed Loewen's Fourth Amended Plan of Reorganization. Loewen said that it is now free to emerge as Alderwoods Group, Inc., with a target date of January 2, 2002. Alderwoods will be a U.S. based Company with common shares publicly traded on the NASDAQ exchange.

Loewen said the name is largely derived from the Alder tree, which is associated with comfort, peacefulness and nature.

### **Non-Pecuniary Cemeteries in Wisconsin**

Since most non-pecuniary cemeteries in Wisconsin are not required to register with the Department and file annual reports regarding their care funds, the Department does not have any reliable statistics regarding them. In 1990, when substantial changes to the cemetery laws were promulgated, the Department attempted to create a mailing list of all cemeteries; however, when the Department made mailings, many were returned "undeliverable." The 10-year old list shows that approximately 550 identified themselves as non-pecuniary; however, 580 survey forms were left blank as to the type of cemetery. Many of these blank surveys probably relate to non-pecuniary cemeteries. If a non-pecuniary cemetery sells 10 or more cemetery lots per year (etc.), it must be registered with the Department. The Department has no oversight of other non-pecuniary cemeteries; however, some of the provisions in Chapter 157, Stats., apply to them.

### **Disciplinary Actions**

**JAMES J SCHWEITZER**  
**SOUTH MILWAUKEE WI**

**REVOKED**

Convicted and sentenced for theft-movable property, a Class C felony. His criminal activity began on or before January 1995 and continued through June, 1998, and consisted of a pattern of receiving funds for the sale of cemetery goods, including plots, crypts, foundations and memorial stones, which belonged to the cemetery. The total amount of the funds which he converted for his own personal use, totaled approximately \$30,000.00. His license is voluntarily revoked with no right to renew. Effective 7/13/2001. Sec. 440.93(1)(d), Wis. Stats. Case #LS0107131RLC

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## New Telephone Directory

The Department of Regulation and Licensing has recently implemented an IVR Auto-Attendant Telephone System. This system may be accessed 24 hours a day for computerized licensing information. We ask for your patience as we perfect the system and remove some of the bugs we have encountered. You may continue to dial the following telephone number; **however, the extension numbers that had been published in past issues of the Regulatory Digest are no longer valid.** Please listen to the new menu for the new extension numbers. The number to dial is:

**(608) 266-5511**

Our Fax Number is: **(608) 267-3816**

## Visit the Department's Web Site

[www.drl.state.wi.us](http://www.drl.state.wi.us)

For our new "Online Verification of Credential Holders" click on the "Business and Professional License Lookup" button on the Department's home page.

Copies of the Regulatory Digest are on the Web.

Send comments to [dorl@drl.state.wi.us](mailto:dorl@drl.state.wi.us)

## Wisconsin Statutes and Code

Copies of the Wisconsin Statutes and Administrative Code Relating to Cemetery Regulation can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated November, 1998.

## Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes is not automatically provided.

**SECTION. 440.11, STATS., ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.**

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